

July 26, 2006

The Regular Meeting of the Rockingham County Board of Supervisors was held on Wednesday, July 26, 2006, at 6:00 p.m. at the Rockingham County Administration Center, Harrisonburg, Virginia. The following members were present:

PABLO CUEVAS, Election District #1  
CHARLES W. AHREND, Election District #2  
DEE E. FLOYD, Election District #3  
WILLIAM B. KYGER, JR., Election District #4  
MICHAEL A. BREEDEN, Election District #5

Also present:

JOSEPH S. PAXTON, County Administrator  
G. CHRIS BROWN, County Attorney  
JAMES L. ALLMENDINGER, Director of Finance  
WARREN G. HEIDT, Director of Public Works  
RHONDA G. HENDERSON, Director of Planning  
DIANA C. STULTZ, Zoning Administrator  
ROBERT A. SYMONS, Fire & Rescue Chief  
STEPHEN R. RIDDLEBARGER, Director of Human Resources  
WILLIAM L. VAUGHN, Director of Community Development  
DOTTIE L. BOWEN, Deputy Clerk  
TIMMY FITZGERALD, Assistant Resident Engineer  
Virginia Department of Transportation

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**CALL TO ORDER**  
**PLEDGE OF ALLEGIANCE**  
**INVOCATION.**

Chairman Breeden called the meeting to order at 6:00 p.m.

County Administrator Paxton led the Pledge of Allegiance, and Supervisor Floyd gave the Invocation.

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**APPROVAL OF MINUTES.**

On motion by Supervisor Ahrend, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved the Minutes of the Meeting held on July 12, 2006.

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**TRANSPORTATION DEPARTMENT.**

The Board heard Mr. Fitzgerald's report on the activities of the Transportation Department.

He reported that the Commonwealth Transportation Board (CTB) had tabled the Revenue Sharing Program for the present time and expected to consider it again at the CTB's next meeting. Mr. Paxton noted that the Commonwealth is allocating less money to secondary road improvements than was allocated in 1996.

Supervisor Floyd advised that residents in his District are interested in having the speed limit on Frieden's Church Road reduced to 40 or 45 miles per hour. Mr. Fitzgerald will look into that possibility.

Supervisor Floyd reported that a culvert is blocked-up behind the bed-and-breakfast facility in his District.

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**COYOTE DEPREDAATION PROGRAM.**

The Board heard a report by Mr. Chad Fox, District Supervisor, US Department of Agriculture, concerning the activities of the Coyote Depredation Program in the past year. He reported that the number of sheep killed was reduced from 136 to 25 and the number of coyotes killed was increased from 10 to 39. He noted that more coyotes may have been killed since they sometimes may wander away and die where the carcasses are not found. He reported that the number of cattle killed increased from 5 to 7. In response to a question from the Board, he advised that most of the coyotes are killed by trapping or by cyanide traps.

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**COURT SECURITY.**

The Board heard a presentation by Sheriff Farley requesting additional court security. He pointed out that additional bailiffs were last added to the court security unit in 1999 and that the court load and the number of courts have continued to increase. He noted that eight additional Juvenile and Domestic Relations Court days and six additional General District Court days have been added each month; a special grand jury is scheduled once a month and an additional special grand jury meets periodically during the year with both grand juries requiring a bailiff. He stated that additional bailiffs are required for Circuit Court on the regular grand jury day and the two processing days every month, for any jury trial involving an inmate, any trial requiring multiple inmates in the court room, and any case which poses high risk. He reminded the Board that the court days have become longer with more cases and plaintiffs and that defendants, spectators and witnesses have become more volatile. While in the past, deputies were reassigned from one area to make up for personnel shortages in other areas, he stated that, as other sections of the court security unit have experienced an increase in work hours, there are no longer personnel to reassign.

On motion by Supervisor Kyger, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board authorized the Sheriff to hire two additional bailiffs at a cost of \$85,000, with one-half of this amount to be paid by the City of Harrisonburg.

On motion by Supervisor Cuevas, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved a supplemental appropriation to 001-03102 Sheriff of \$85,000 to be used for this purpose, with \$42,500 from the General Fund Reserve and \$42,500 from the City of Harrisonburg.

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**AMENDMENT TO AGREEMENT WITH US DEPARTMENT OF AGRICULTURE  
NATURAL RESOURCES CONSERVATION SERVICE RE GERMAN RIVER.**

On motion by Supervisor Cuevas, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved the following amendment to AGREEMENT NO. 6-33A7-5-7.

**AMENDMENT NO. 1 TO PROJECT AGREEMENT BETWEEN UNITED STATES  
DEPARTMENT OF AGRICULTURE, NATURAL RESOURCES CONSERVATION  
SERVICE, AND ROCKINGHAM COUNTY BOARD OF SUPERVISORS**

The Project Agreement is hereby revised as follows: -

In paragraph A, the project description is revised to include removal of the cobble and debris

blockages from the German River, restore the hydrologic function to the stream, and dispose of the debris in a suitable location. The debris basin has been deleted and the stream restoration project has increased to a total length of 4,962 feet.

In paragraph D.1 revise completion date to December 1, 2006. The 90-day contract award stipulation has been waived due to permitting issues beyond the control of the sponsor.

Purpose: To make a revision to the scope of work and extend the completion date.

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#### **COUNTY ADMINISTRATOR'S STAFF REPORT.**

The Board received and reviewed Mr. Paxton's staff report dated July 21, 2006, including information on economic development, the Route 33 Corridor Study, the water report to the State Health Department, and the Weed & Seed program.

On motion by Supervisor Ahrend, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board authorized the following contract with Shenandoah Valley Partnership for additional services.

#### **AGREEMENT**

Under terms of this agreement, Rockingham County agrees to compensate the Shenandoah Valley Partnership (SVP) \$10,000 for fiscal year 2006-07. It is understood that this compensation is in addition to the regular fee assessed to Rockingham County for yearly participation in the SVP and that certain services will be performed for such consideration.

Activities and services to be provided by SVP for additional compensation include:

1. Research on industries and/or individual companies as directed by County.
2. Development or assistance with development of proposals or requests for information (RFI's) that may come directly to the jurisdiction.
3. Participation by SVP representative(s) in specific trade show or marketing missions as directed by County.
4. Other activities as negotiated and mutually agreed to by the County and SVP.

On motion by Supervisor Cuevas, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; as recommended by the Finance Committee, the Board approved a supplemental appropriation to 001-08102 Economic Development of \$10,000 for this purpose from the Contingency.

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**COUNTY ATTORNEY'S STAFF REPORT.**

Mr. Brown advised that Requests for Proposals (RFPs) have strict provisions under State law which permit a bidder who files a bid containing a mistake to withdraw the bid. As there are two methods by which the withdrawal may be made, Mr. Brown advised the Board to adopt the simplest of the two methods, which he then described.

On motion by Supervisor Cuevas, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board adopted the following method for permitting a bidder who files a bid containing a mistake to withdraw the bid.

In the event that a bid contains an error as described in Virginia Code Section 2.2-4330, a bidder may request to withdraw the bid by giving notice in writing of his claim of right to withdraw his bid within two business days after the conclusion of the opening procedure and shall submit original work papers with such notice.

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Mr. Brown updated the Board on the issue of Massanutten Village property owners renting out their houses on a short-term basis, which in some instances, has caused concern to other residents. He stated that counsel for the Massanutten Property Owners Association and counsel for residents who wish to maintain rental properties in Massanutten have been working on a proposed solution to the issue to present to the Rockingham County Board of Supervisors at the appropriate time. Mr. Brown noted that he had met with both of the attorneys involved and would be participating in meetings with them in the near future. Mr. Brown suggested that the attorneys representing the various parties in Massanutten be allowed to continue working on a proposed solution with the understanding that the process must proceed quickly to resolution. Mr. Brown stated that the issue is currently a zoning enforcement matter and is not before the Board, but that any proposed solution likely would have to come before the Board for its final approval.

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**DEPUTY COUNTY ADMINISTRATOR'S STAFF REPORT.**

Mr. King did not have a written staff report.

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**FINANCE DIRECTOR'S STAFF REPORT.**

On motion by Supervisor Cuevas, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; as recommended by the Finance Committee, the Board

Authorized advertising a public hearing for August 16, 2006, to consider an amendment to the Fiscal Year 2006-2007 budget in order to appropriate funds to finance renovations to J. Frank Hillyard and Wilbur Pence Middle Schools.

On motion by Supervisor Cuevas, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; as recommended by the Finance Committee, the Board approved the following carryovers to the FY 2006-07 Budget.

1. As requested by the Fire and Rescue Chief, approved a carryover of unencumbered FY 2005-2006 funds in the amount of \$39,959. This amount represents the balance of unencumbered grant funding by the VA Department of Fire Programs to the current fiscal year in accordance with the grant policies and guidelines.

Carry Over Appropriation: \$39,959

\$ 9,959	GL Code: 001-03201-700-5504-000	Professional Development
\$10,000	GL Code: 001-03201-700-6065-000	Minor Equipment
\$20,000	GL Code: 001-03201-700-8005-000	Vehicles
\$39,959	GL Code: 001-05201-0100	General Fund Reserve

2. As requested by the Information Systems Director, approved a carryover of unencumbered FY2005-2006 funds in the amount of \$5,827. This is for parts necessary to build computers that were on back order on June 30<sup>th</sup> and are expected to be delivered in July.

Carry Over Appropriation: \$5,827

5,827	GL Code: 001-01220-000-6007-000	Repair & Maintenance Supplies
5,827	GL Code: 001-05201-0100	General Fund Reserve

3. As requested by the Information Systems Director, approved a carry over of unencumbered FY2005-2006 funds in the amount of \$130,000. This is for the

department's disaster recovery plan, the third phase of the GIS project, and the upcoming document imaging project.

Carry Over Appropriation: \$130,000

130,000 GL Code: 101-09401-000-8007-000 Computer Equipment  
130,000 GL Code: 101-05201-0100 General Fund Reserve

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On motion by Supervisor Cuevas, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; as recommended by the Finance Committee, the Board approved the following.

1. PBGH notified the County of additional services for the conversion and implementation of Governmental Accounting Standard Board (GASB) Statement No. 44, Economic Condition Reporting: The Statistical Section. The estimate of fees range between \$10,000 to \$12,000. This is a very involved and time-consuming addition to the Comprehensive Annual Financial Report. Staff will be working with PBGH to prepare portions of this new statistical section in an effort to reduce this fee estimate. Funding is to be provided from the General Fund Reserve.

Supplemental Appropriation: \$10,000

\$10,000 GL Code: 001-01208-000-3103-000 Accounting Services  
\$10,000 GL Code: 001-05201-0100 General Fund Reserve

2. The Victim Witness Program grant, Commonwealth's Attorney Office, has been approved for Rockingham County in the amount of \$55,850 in Federal Funds and \$13,962 in State Funds for a total award of \$69,812. This grant was originally budgeted at \$67,771. The Board accepted the grant and approved the following supplemental appropriation for the additional amount.

Supplemental Appropriation: \$2,041

\$ 2,041 GL Code: 001-02201-500-5504-000 Professional Development  
\$ 13,962 GL Code: 001-02404-1900 Victim Witness Grant-State Funds  
\$ 55,850 GL Code: 001-03900-1000 Victim Witness Grant-Federal Funds  
\$(67,771) GL Code: 001-03900-1000 Victim Witness Grant-Federal Funds

3. The Community Corrections grant, Court Services Department, has been revised and approved for Rockingham County in the amount of \$352,473 in State Funds and no local match. This grant was originally budgeted at \$332,454. The Board accepted the grant and approved the following supplemental appropriation for the additional amount.

Supplemental Appropriation: \$20,019

\$10,009	GL Code: 001-02110-100-6014-000 Other Operating Supplies
\$10,010	GL Code: 001-02110-200-6014-000 Other Operating Supplies
\$20,019	GL Code: 001-02407-0300 Community Corrections Grant

4. An additional Criminal Justice Record Systems Improvement grant, Court Services, has been approved for Rockingham County in the amount of \$115,125 in Federal Funds and \$38,375 in local match for a total award of \$153,500. These funds have not been budgeted. The Board accepted the funds and approved the following supplemental appropriation.

Supplemental Appropriation: \$153,500

\$ 38,375	GL Code: 001-02110-700-5697-000 Grant Share-local match
\$ 7,500	GL Code: 001-02110-700-3109-000 Other Professional Services
\$ 28,125	GL Code: 001-02110-700-8007-000 Computer Equipment
\$ 79,500	GL Code: 001-02110-700-6014-000 Other Operating Supplies

\$115,125	GL Code: 001-03900-2700	DCJS-Criminal Justice Record Systems Improvement
\$ 38,375	GL Code: 001-05201-0100	General Fund Reserve

5. As requested by the Juvenile/Domestic Relations Court Judge Hillsman and Clerk Modisett, the Board approved the following supplemental appropriation of \$760. With the increased court sessions, there is an urgent need for additional office equipment. Funding will be provided from the General Fund Reserve.

Supplemental Appropriation: \$760

\$660	GL Code: 001-02105-000-5401-000 Lease/Rent Equipment
\$100	GL Code: 001-02105-000-6014-000 Other Operating Supplies
\$760	GL Code: 001-05201-0100 General Fund Reserve

6. As requested by Juvenile/Domestic Relations Court Judge Napier for reimbursement for the robe used in the Juvenile and Domestic Relations District Court for the 26<sup>th</sup> Judicial District for Harrisonburg/Rockingham County, the Board approved the following supplemental appropriation in the FY 2005-2006 budget in the amount of \$199, with funding to be provided from the General Fund Reserve.

Supplemental Appropriation: \$199

\$199	GL Code: 001-02105-000-6014-000 Other Operating Supplies
\$199	GL Code: 001-05201-0100 General Fund Reserve

7. The County received a check in the amount of \$254.45 from the State for mines and minerals royalties. These funds are to be used either for public roads or public schools. The Board designated these funds for public schools and further designated future amounts not exceeding \$1,000 for public schools.



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On motion by Supervisor Cuevas, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board increased the County's mileage reimbursement rate from \$0.405 to \$0.445, effective immediately.

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On motion by Supervisor Cuevas, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board gave approval for the conversion of the Municipal NOW account with SunTrust Bank.

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**PUBLIC WORKS DIRECTOR'S STAFF REPORT.**

The Board received and reviewed Mr. Heidt's staff report dated July 26, 2006, including information concerning the schedule for Penn Laird Drive and Water Tower Road sewer (required easements being sought); McGaheysville WWTP (preliminary engineering report submitted to DEQ); Phase III Landfill extension (staff recommendation submitted to Public Works Committee); Three Springs Water system analysis (currently seeking proposals for third party review of water system analysis final report); Pleasant Run Interceptor (awaiting DEQ and VHD approval); Lilly Gardens (well upgrade scheduled for week of July 24, 2006); City of Harrisonburg Waste to Energy Plant; Montevideo Water Booster Station Emergency Generator and Transfer Switch (Leon Electric contracted to complete project); and Highland Park and Belmont Sewage Lift Stations (new lift station design initiative in progress).

In a report to the Public Works Committee, Mr. Heidt stated, "The landfill expansion project Request for Quotation (RFQ) was advertised in the Daily News Record on June 17, 2006. A pre-bid meeting was held on Monday, July 10, 2006, and the bid closing was set at 5:00 pm on July 20, 2006. Despite initial interest in this project by a number of qualified contractors, due to the tight construction schedule defined in the bid documents and the short timeframe that was allowed for preparation of bids, only two contractors bid the project, and due to a failure on the part of Federal Express, one of the bids did not arrive by the 5:00 pm deadline. The one bid that was received on time was significantly over budget. According to our bidding procedures, the one bid that arrived late must be returned to the bidder unopened. Given that the only bid received was substantially over budget, Staff recommends re-bidding the landfill expansion project."

On motion by Supervisor Ahrend, seconded by Supervisor Cuevas and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; as recommended by the Public Works Committee, the Board directed staff to re-bid the landfill expansion project.

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**PUBLIC HEARING - SALE OF KEEZLETOWN SCHOOL PROPERTY.**

At 7:00 p.m., Chairman Breeden declared the meeting open for a public hearing on a proposal to sell all that tract of land containing approximately 6.879 acres, with all improvements thereon, located at 1688 Indian Trail Road, Keezletown, Virginia, Rockingham County Tax Map #126A-(A)-L5, and commonly known as "the Keezletown School Property." Mr. Brown advised that the County had received one bid for the property. The bid was from the Redeemer Classical School, Inc. and offered \$275,000 for the property. He noted that the County also received a letter from an employee of Eastern Mennonite High School expressing interest in the property, but the letter did not have the authority of the Eastern Mennonite High School Board and it did not offer a specific purchase price.

David Lee, representing Redeemer Classical School, Inc., outlined the school's offer and asked that the Board "protect the integrity of the process outlined when the offer was submitted" and agree to sell the property to Redeemer Classical School, Inc. He assured the Board that there were no plans to discontinue the activities of the cannery which is presently on the property.

Brian Augustine, Chairman of the Board for Redeemer Classical School, Inc., said the School had been in existence for three years and now had over 50 students. He said classes were currently held at Faith Bible Church, with approximately 70% of the students coming from the County. He said the cannery was a "great resource to the community" and the Church would not change it.

Kim Sandum said her son was one of the students attending the School and stated that the School was "doing an excellent job." She said she saw it as a "good fit for the community" and one that did not "disrupt the neighbors."

Mr. Brown described the process followed in the evaluation of the bid for the Redeemer Classical School. "The process that has to be followed under state law is very frustrating. We have struggled with how to do this properly to be fair to everyone. In this case there was an unsolicited bid. The County published notice of the bid twice in *The Daily News Record*. The notice invited other interested parties to make an offer or to contact County officials for more information. It was on the radio. There was every opportunity for others to talk with us and

make a bid. That did not happen. The County published a second notice in *The Daily News Record*, setting out the purchase price offered by the Redeemer Classical School. It puts the Redeemer Classical School in the position of having others look at that and say they could beat the purchase offer by, say, \$5,000. We could go back and do it all over again, but it is important that the integrity of the process be protected. At some point, we have to close the process. The Board has complied with state law and in fact has gone well beyond what is legally required. The Redeemer Classical School likewise has followed the procedures set out by state law and the Board."

Chairman Breeden closed the public hearing and called the regular meeting back to order at 7:20 p.m.

On motion by Supervisor Floyd, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board

1. Agreed to negotiate a final contract to sell to Redeemer Classical School, Inc., at a purchase price for the property of \$275,000 cash or cash equivalent, all that tract of land containing approximately 6.879 acres, with all improvements thereon, located at 1688 Indian Trail Road, Keezletown, Virginia, Rockingham County Tax Map #126A-(A)-L5, and commonly known as "the Keezletown School Property."
2. Instructed the County Administrator and County Attorney to prepare the necessary documents to be signed as required by the proper County officials.
3. Agreed that the receipts from the sale would be used for renovation and construction of Rockingham County schools.

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#### **PUBLIC HEARING - SPECIAL USE PERMITS.**

At 7:25 p.m., Chairman Breeden declared the meeting open for a public hearing on the following special use permit requests.

Ms. Stultz announced the applicant's withdrawal of S06-51, request of East Gate Ministries for a residential maternity home on property located on the west side of Wentworth Drive (Route 873) approximately 3/10 mile south of Mayland Road (Route 259), Election District #1, zoned A2. Tax Map #52-(A)-140A.

Ms. Stultz reviewed the particulars for each of the following applications.

S06-45, request of Ronnie Rhodes for a residence involving a division of land on property located on

the northwest side of Minie Ball Lane (Route 718) approximately 1/2 mile west of Mountain Valley Road (Route 620), Election District #3, zoned A1. Tax Map #96-(A)-29.

Mr. Rhodes said he planned to build a house in the near future if the request was approved and he had "no problem" with the staff's suggested conditions.

The was no opposition expressed.

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S06-46, request of Tomas Aguirre-Quintero for a towing business and impound lot (like use to automobile graveyard) on property located on the southeast side of Cecil Wampler Road (Route 704) and Scholars Road (Route 988), Election District #3, zoned A2. Tax Map #124-(A)-54.

Mr. Aguirre-Quintero was present, and his son was present to speak on his behalf.

Mr. Harold Ocher, Jr., said an impound lot "would be very much out of place" at the proposed location and would "not fit in with the rest of the community."

James Webster said he had "bettered" his own property since moving there four years ago, and he thought the proposed use would devalue the neighboring sites. He said he saw the proposed use as a "junk yard" that "would not benefit the rest of the community."

Mary Lee Ewing noted that she had sent the County a letter of opposition to the request.

Sandra Sylvest said she "would not be happy to see Early Road turn into an industrial complex." She said she understood "its benefit to the County," but she did not think it would benefit the local community.

Mr. Aguirre-Quintero's son said the request was not for a junk yard but an impounding lot. He advised that the lot would be small and would not "bother anybody." He pointed out that there was not such a facility in the area to serve the Hispanic community where, if a person's car is impounded, there is a communication barrier. He assured the Board that the impound lot would be a good neighbor.

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S06-47, request of Philip James for an addition to a small engine repair and motorcycle customizing shop on property located on the north side of Cottonwood Trail (Route 705) approximately 2/10 mile east of Pleasants Drive (Route 898), Election District #3, zoned A2. Tax Map #124-(A)-69A3.

Mr. James said the hours of operation had been "fine" and all the things people had expressed concern about had been "taken care of."

There was no opposition expressed.

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S06-48, request of Brent Burkholder & Travis Rhodes for removal of Condition #9 of previous special use permit. This removal would allow storage of materials outside of building on property located on the south side of Eversole Road (Route 766) approximately 600 feet west of Gailcrist Drive (private), Election District #2, zoned A2. Tax Map #93-(A)-29B.

Mr. Burkholder was present to answer questions.

John Marafino said the previous conditions of the special use permit had already been "violated," and he questioned whether approval of the application would allow the applicant to "continue to chip away at the conditions." He asked that the present permit "be enforced."

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S06-49, request of Philip Witmer, 8112 Ottobine Road, Dayton for a second residence (for farm worker) on property located on the north side of Ottobine Road (Route 257) approximately 500 feet east of Clover Hill Road (Route 613), Election District #2, zoned A1. Tax Map #105-(A)-84.

The applicant was present to answer questions.

There was no opposition expressed.

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S06-50, request of Mary Belle Dove for a residence involving a division of land on property located on the south side of Turleytown Road (Route 613) and John Brock Road (Route 783), Election District #2, zoned A1. Tax Map #63-(A)-70.

Mrs. David Williams, realtor, representing the applicant, was present to answer questions.

Michelle Hughes, representing her parents who own the adjoining property, objected to the request, noting that the applicants "will be able to take off another division in five years." She said, "We don't want houses dotted all over up there."

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S06-52, request of Michael & Wanda Delaney for a third residence (for applicants) involving a division of land on property located on the east side of Runions Creek Road (Route 610) approximately 2.01 miles north of Pineland Acres Lane, Election District #1, zoned A2. Tax Map #19-(A)-28.

Mr. Delaney was present to answer questions.

Brent Burkholder, real estate agent for the property, was also present to answer questions.

Mary Pruitt wanted to know the meaning of allowing a farm worker to live in the house. She said she had a "medical condition" and did not want a poultry house being built on the site.

Ms. Stultz said the applicant could use one of the houses for a farm worker if he needed help on the farm. She pointed out that, as the property was zoned A2, a poultry house could be built on the site.

Supervisor Kyger noted that the applicant could use his land for any agricultural purpose.

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At 7:55 p.m., Chairman Breeden closed the public hearing and called the regular meeting back to order.

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Noting that the Board should probably visit the Rhodes property, on motion by Supervisor Floyd, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board tabled S06-45, request of Ronnie Rhodes for a residence involving a division of land on property located on the northwest side of Minie Ball Lane (Route 718) approximately 1/2 mile west of Mountain Valley Road (Route 620), Election District #3, zoned A1.

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Supervisor Floyd said a large number of people had called him to express their concerns about the Aguirre-Quintero application. He noted that there was opposition heard during the hearing as well, indicating that the residents of that area did not want an impound lot located in the community. On motion by Supervisor Floyd, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board denied S06-46,

request of Tomas Aguirre-Quintero for a towing business and impound lot (like use to automobile graveyard) on property located on the southeast side of Cecil Wampler Road (Route 704) and Scholars Road (Route 988), Election District #3, zoned A2.

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Noting that the James venture had been in operation for some time, on motion by Supervisor Floyd, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S06-47, request of Philip James for an addition to a small engine repair and motorcycle customizing shop on property located on the north side of Cottonwood Trail (Route 705) approximately 2/10 mile east of Pleasants Drive (Route 898), Election District #3, zoned A2.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) Addition shall comply with the Uniform Statewide Building Code and the proper building permits shall be required.
- (3) VDOT reserves the right to require future entrance upgrades should conditions warrant.
- (4) In accordance with Health Department comments, there shall be no public restrooms available for this business.
- (5) All work shall be done within the building and there shall be no storage of parts, etc. outside the building.
- (6) There shall be no junk, trash or debris allowed to accumulate on the property.
- (7) This permit is contingent upon a site plan being submitted to and approved by the County. No permits shall be issued by the Department of Community Development and no work shall be done on the property until such time as a site plan is approved.
- (8) Off-street parking shall comply with the Rockingham County Code, and there shall be no parking on the VDOT right-of-way.
- (9) On-premise advertising sign shall comply with the Rockingham County Code, and a permit shall be obtained for any sign.
- (10) There shall be no off-premise signs allowed unless all County and VDOT requirements for outdoor advertising signs are met.
- (11) The business shall not begin operation in the addition until a certificate of occupancy is issued by the

County. No certificate of occupancy shall be issued until all other conditions of this permit are met.

- (12) Hours of operation shall be from 8:00 a.m. to 7:00 p.m.
- (13) All conditions of the previous special use permit remain in effect and shall be enforced.

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Supervisor Ahrend said the Board had visited the Burkholder site and noted that the applicant had restricted the outside storage to a specific area within the property. He indicated he would be willing to move for approval with a height restriction of ten feet. On motion by Supervisor Ahrend, seconded by Supervisor Cuevas and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S06-48, request of Brent Burkholder & Travis Rhodes for removal of Condition #9 of previous special use permit. This removal would allow storage of materials outside of building on property located on the south side of Eversole Road (Route 766) approximately 600 feet west of Gailcrist Drive (private), Election District #2, zoned A2.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) VDOT reserves the right to require future entrance upgrades should conditions warrant.
- (3) This permit is contingent upon the site plan for the business being updated to show the storage area.
- (4) No materials shall be stored outside of the area approved with this permit.
- (5) All conditions of the March 2005 permit with the exception of condition #9 shall remain in effect and shall be enforced.
- (6) The stored materials shall not exceed ten (10) feet in height at any point.

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On motion by Supervisor Ahrend, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S06-49, request of Philip Witmer, 8112 Ottobine Road, Dayton for a second residence (for farm worker) on property located on the north side of Ottobine Road (Route 257) approximately 500 feet east of Clover Hill Road (Route 613), Election District #2, zoned A1.



- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) Residence shall comply with the Virginia Uniform Statewide Building Code, and the proper permits shall be obtained.
- (3) Manufactured home shall be skirted and the tongue removed, unless included in the skirting, within sixty (60) days from final inspection.
- (4) This residence shall not be used for rental purposes.
- (5) This residence shall not be occupied until a certificate of occupancy is issued from the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.

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Noting that the Board was attempting to preserve agricultural land, on motion by Supervisor Ahrend, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; , the Board denied S06-50, request of Mary Belle Dove for a residence involving a division of land on property located on the south side of Turleytown Road (Route 613) and John Brock Road (Route 783), Election District #2, zoned A1.

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Supervisor Cuevas noted that Mr. Delaney planned to live in one house and have his mother-in-law live in the other. He said he did not believe the third house should be demolished as long as it did not become an "eyesore." On motion by Supervisor Cuevas, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S06-52, request of Michael & Wanda Delaney for a third residence (for applicants) involving a division of land on property located on the east side of Runions Creek Road (Route 610) approximately 2.01 miles north of Pineland Acres Lane, Election District #1, zoned A2.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) Residence shall comply with the Virginia Uniform Statewide Building Code, and the proper permits shall be obtained.
- (3) An entrance permit shall be obtained from VDOT and submitted to the Community Development Department prior to obtaining a building permit.

- (4) Prior to obtaining a building permit, a sanitary waste facility permit shall be obtained from the Health Department. At time of deed exception, restrictive language may be placed in the deed stating that it has not been perked but the proper permits shall be obtained prior to construction of the residence.
- (5) If deed exception is made within two years from date of approval of the special use permit, the residence on the property shall be exempt from the two year completion date. However, at time a request is made to construct a residence on the property, all County regulations in effect at that time must be met.
- (6) None of the residences shall be used for rental purposes except for family members or farm workers.
- (7) This residence shall not be occupied until a certificate of occupancy is issued from the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.

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**PUBLIC HEARING:**

**REZONING REQUESTS.**

**DRY RIVER AGRICULTURAL & FORESTAL DISTRICT - WITHDRAWAL REQUEST.**

At 8:15 p.m., Chairman Breeden declared the meeting open for a public hearing on the following rezoning requests. Ms. Henderson reviewed the particulars of each request.

RZ06-10 Mark & Juanita Showalter, 6673 Harpine Highway, Linville, to rezone 1 acre from A1 (Prime Agricultural) to A2 (General Agricultural) on a portion of tax parcel 64 (A) 60. The site is located on the west side of Harpine Highway (Route 42) approximately 425 feet south of Wengers Mill Road (Route 753) in Election District #2. The Comprehensive Plan designates this area as Agricultural Reserve outside an Urban Growth Area. If the rezoning is approved, he plans to apply for a special use permit for a public garage.

On June 16, 2006, staff recommended denial of this request, noting, "This area, in farmland and scattered residences, is designated as Agricultural Reserve in the Comprehensive Plan. The Comprehensive Plan states "one of the primary goals of the Plan is to preserve the agricultural industry and economy" and that "commercial uses are more appropriate in the Urban Growth Areas located around Harrisonburg and the towns, as delineated on the conceptual land use maps in the Comprehensive Plan."

On July 5, 2006, the Planning Commission, on a 4-1 vote, recommended denial of the request, stating the request was not compatible with the Comprehensive Plan.

Mr. Showalter advised that "VDOT had no concerns about safety as far as a commercial entrance in that area

was concerned." He said the commercial garage would be for agricultural equipment as well as automobile equipment. He said he would be removing two existing buildings to put up one building with very little change in the buildings' footprint. He noted that he raised sheep, cattle, horses and chickens and that he planned to increase the number of cows and sheep. He pointed out that the garage would not change the agricultural use of the property. He noted that he would be serving the agricultural community. He assured the Board that there would not be pollution of the creek, and noted that he and his family used the creek for swimming and fishing. He submitted petitions in favor of the proposal to the Board and asked that the people stand in the audience who favored the permit. Twelve people stood.

Supervisor Cuevas pointed out that, without a permit, the applicant could use any of his buildings and he could store and park vehicles outside.

George Wenger said his land adjoined the site and he was in agreement with the request. He referred to the history of the site, noting that a blacksmith shop was on the site 150 years ago.

Sandra Strawderman said her family owned land on the opposite side of Route 42. She reiterated that the square footage of the building would increase by 150 feet. She indicated that she did not want to see all of the area's small businesses move to Harrisonburg and noted that it would be convenient for the community's residences to be able to get repairs made close by.

Charles Monahan, adjoining landowner, said the use would be a "boon to the community." He said the applicant was "responsible and a very good mechanic. He pointed out that "it used to be that every little community had a fix-it shop or gas station" and said these were needed in the area.

Juanita Showalter said there should be some exceptions to the rule. She pointed out that the use would be a "small business" and the applicants would live right beside the garage and run a family-owned business. She said that she and her husband intended to design the structure so that it would "fit on the property" and "try to keep it rural."

David Proctor said his property overlooked the area in question, and he was concerned about safety as the property did not "lend itself to a good entrance or exit." He noted that there were "no direct crossovers, and most of the vehicles would not arrive at the garage "on their own power." He noted his concern that the vehicles would have to go further on Route 42 and then turn around in one of the small cross-over areas where the speed is often 60 miles per hour. He said the applicants purchased the land knowing that it was zoned for agriculture. He reminded the Board that four Planning Commissioners voted against the proposal because it did not conform

with the County's Comprehensive Plan, and he thought a vote in favor by the Board would be "saying the Planning Commission has no value." He pointed out that there would be drainage from the vehicles if a garage was built on the sloped site and the drainage would eventually make its way to Linville Creek.

Ruth Stoltzfus Yost expressed concern about the creek and water quality. She reminded the Board of the land's historic value as well as its agricultural background. She noted that it was once the site of a blacksmith shop, and she pointed out that the effluents from gasoline powered vehicles were greatly different from that of horses. She reminded the Board that a public garage already exists just one mile "down the road" from the site.

Debbie Roadcap commended the applicant "for wanting to have his own business." She noted that she had her own business but located it in a commercial area, not in the agriculture area where she and others in the community made their homes. She also pointed out the garage already existing one mile from the site.

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RZ06-11 Interchange Group, Inc., Manager for Lispen, LLC, and Shen Valley, LLC, to rezone 97.44 acres from M1-C, A1, and A2 to B1-C (General Business with Conditions) on tax parcels 123 (A) 72A, 137 (A) 82, and 137 (A) 83 and a portion of 123 (A) 74. The site is located on the south side of Cecil Wampler Road (Route 704) approximately 0.5 mile east of South Valley Pike (Route 11) in Election District #3. The Comprehensive Plan designates this area as Agricultural Reserve inside an Urban Growth Area in 2010 and Industrial in 2020.

On June 28, 2006, staff recommended that this request be tabled, noting, "The magnitude and array of commercial uses that could occur on this site have not been determined and, thus, Public Works and Fire and Rescue cannot adequately evaluate demands on water, sewer, and emergency services. VDOT needs additional information prior to making recommendations or comments regarding roads and road access. In addition, long-term internal access to the site should be evaluated; ideally, an internal road would ultimately connect Cecil Wampler Road to Friedens Church Road, providing more direct access to I-81."

On July 5, 2006, a 5-0 vote. the Planning Commission recommended that the request be denied, stating, "This request is not compatible with the existing Comprehensive Plan. However, it would be compatible with the 2005 Annual Review that was tabled by the Board of Supervisors on June 22, 2005. In the absence of Comprehensive Plan support, the Commission recommends denial.

Ms. Henderson reviewed the particulars of the request.

Todd Rhea, representing the applicant, made the following statement and asked that it be entered into the record for the meeting.

*Mr. Chairman, Members of the Board and County Officials, my name is Todd Rhea, I am an attorney with Clark & Bradshaw, and I am here on behalf of the Applicant, Interchange Group, for its request to rezone 97 acres along I-81 immediately south of Harrisonburg. The applicant already owns 11 acres of industrial zoned property within the request area, with the Joe and Faye Wampler Family owning the balance, which is currently their family farm. Tonight, I will be making the primary presentation in favor of the application. Also here with me tonight are Nathan and Dick Blackwell of Blackwell Engineering, the project engineer, and Joe and Faye Wampler who own the family farm under consideration.*

*My presentation will focus on four aspects of the current request, its Planning Merits, Fiscal Benefits to the County, Wampler Family Goals and Transportation Issues.*

*First I will discuss the Planning Merits of the application*

*This corridor has been planned by the County to develop in an industrial and commercial manner. Both the current comprehensive plan and proposed comprehensive plan revisions are consistent with this future use the property.*

*While much of the site is currently used as a farm, this site is surrounded by interstate and intensive industrial and distribution uses. We consider the request to be an infill rezoning with I-81 and the WalMart distribution center lying to the east, Sysco to the North and the Route 11 corridor with Cargill Distribution and Morningstar to the West.*

*The site is served on both the north and south ends by major utility lines with water and sewer capacity. Blackwell Engineering has provided a letter to the County detailing that the full buildout of the commercial park on this site would use less than 0.1% of the available capacity at the North River Regional Sewer facility. There is no realistic concern with water and sewer at this site given the infrastructure currently in place.*

*Given the surrounding and growing uses, coupled with the high level of installed infrastructure on site, we believe that this is the type of undeveloped property within an Urban Growth Area that makes sense to transition to more intensive usage.*

*This property also fills a niche for Interchange. Interchange is well known locally, with extensive development experience in the Pleasant Valley Commercial Park area to the north and east of this site. Their remaining vacant land east of I-81 is planned for mid to large site industrial/warehousing*

and distribution sites. Interchange also owns acreage at the Mt. Crawford interchange to the south that is planned for interstate service commercial uses. The Wampler Farm fills the area between these uses. This site is planned by Interchange for industrial support type commercial uses and commercial uses with interstate visibility needs, without the need for immediate interstate interchange access.

There is no single currently identified user for the site. The applicant has proffered out 24 permitted and special uses, primarily of an assembly or intensive utility use nature.

The applicant has further proffered, consistent with the Comprehensive Plan, architectural and development guidelines put in place to insure consistent and attractive development of the commercial park. These restrictions include extensive buffering and landscaping, parking and outside display location, area and size restrictions and well planned screening and property facing requirements.

The second item for discussion are the clear fiscal and economic benefits that the development of the site for commercial uses provide for Rockingham County

Based on figures provided by the County, the 97 acres contained in the request currently generate approx. \$6,000 in annual real estate assessment revenues. When built out, the site is anticipated to generate, in 2006 assessment dollars, approximately \$375,000 per year in annual real estate assessment revenues. This figure is before considering additional revenues generated at the site from sales or equipment levies. This is the type of development the County will need as steady growth in other zoning classifications creates the need for additional fiscal revenue sources without increasing base tax rates.

Additionally, we see this site as having the clear potential to attract relocating local businesses, in addition to drawing new businesses. Much of the current commercial and light industrial facilities within the City, along Waterman Drive, Route 42 and Route 11 South are aging. This site will accommodate and provide a convenient place for those businesses to relocate to as their facilities are outgrown or become obsolete. The City has further provided opportunity in this area by its downzoning of approximately 60 acres of interstate-frontage commercial property to residential near the I-81 South Main interchange, further reducing options within the City for business and industrial support related commercial development.

I will now touch briefly on the Wampler Family's goals. This farm is their primary asset and source of retirement income. The Wampplers wish to retire and have their children relocate the family farm to a quieter area of the County, away from being pressed up next to the interstate. Interchange and the Wampplers have worked long and hard on coming to an agreement for the property and have built into their sales

contract a 3-5 year transition window for the buildout of the commercial park. This 3-5 year period will allow for the orderly downsizing and relocation of the family farm to another more rural part of the County for use by future generations of Wamplers.

The fourth and last issue I will discuss is transportation. Based upon several meetings with VDOT, and a meeting with VDOT and County officials, we are in the process of coordinating to provide for longer-term transportation solutions among the three major landowners along Route 704 in this area. These three landowners are the applicant, the Weaver family and the Monger Family. Based on initial discussions, we believe there may well be room for common interests to converge with either a plan to relocate and line up Route 704 with the light as it comes out from Bridgewater to Route 11, or alternatively, a common entrance and upgrades to existing Route 704 with a future light at its current intersection with Route 11. We are working diligently in an attempt to find solutions for concerns that have been raised with future development in this area, but with summer vacations impacting schedules, we need a bit more time to get everyone fully to the table to see what can be accomplished along these lines.

Fortunately, Route 704 at the site is currently below capacity, a rarity for a County road located in or near a growth area. This gives us some flexibility in our approaches to and timing of transportation solutions. In connection with an approved rezoning, the applicant has committed to give VDOT additional I-81 corridor right of way and setback for future widening, along with additional right of way for improvements to Route 704. It can do this, as it owns on both sides of 704 in the rezoning area. This committed right of way, based on contract values, would provide in excess of \$250,000 of no cost right of way to the County and State for future road improvements.

In conclusion, we believe the Planning, Economic, Farm Family and Transportation benefits that we have outlined tonight create a clear win-win situation for the applicant, the Wampler Family and the County.

We would ask for additional time from the Board in order to coordinate the transportation pieces as they relate to the surrounding properties, and we commit to work diligently to find ways to reasonably accommodate the numerous requests made by VDOT for Route 704 and I-81 in this area.

As such we would respectfully ask you to table our request this evening as we pursue agreement on these items.

I would be happy to field any questions that you may have with the application.

No objections were expressed.

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Request of Ray and Deborah Showalter to withdraw tax parcels 106(A)75, 106(A)71, 106(A)73, and 106(A)69 from the Dry River Agricultural and Forestal District. These parcels are located southwest of the intersection of Rushville Road and Limestone Lane.

Dwight Newman, Chairman of the Agricultural and Forestal District Advisory Committee, advised that the Committee was in favor of the request. He pointed out that the applicants wished to pursue protection of their farmland with a permanent conservation easement for which they have applied through the Virginia Outdoors Foundation. He stated, "The Agricultural and Forestal Advisory Committee met on Thursday, June 15, 2006, in the Community Development conference room to review the request of Ray and Deborah Showalter to withdraw four parcels of land from the Dry River Agricultural and Forestal District in order to place them in a conservation easement. According to the Code of Virginia, Section 15.2-4314(D), any time after the creation of a district a landowner may file a written request to withdraw all or part of his land from the district for 'good and reasonable cause.' The Showalters have followed the proper procedure in filing a written request, which was received by the Advisory Committee. After some discussion by the advisory committee, a motion was moved and seconded to grant the Showalters permission to remove four parcels from the Dry River Agricultural and Forestal District. Acting in 'good faith,' the motion passed by a vote of 7 to 0."

Mr. Showalter said he would be happy to proffer that, if the permanent conservation easement were not approved, the land would again become part of the Dry River Agricultural and Forestal District.

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At 9:05 p.m., Chairman Breeden closed the public hearing and called the regular meeting back to order.

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Supervisor Ahrend reminded the Board that the Comprehensive Plan was a "plan." He said the farm "really isn't A1" and "it will still be maintained as agriculture." He noted that it would "not change the looks" of the property and would be a "family operation." On motion by Supervisor Ahrend, seconded by Supervisor Cuevas and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved RZ06-10 Mark & Juanita Showalter, 6673 Harpine Highway, Linville, to rezone 1 acre from A1 (Prime Agricultural) to A2 (General Agricultural) on a portion of tax parcel 64 (A) 60. The site is located



on the west side of Harpine Highway (Route 42)  
approximately 425 feet south of Wengers Mill Road (Route  
753) in Election District #2.

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As requested by the applicant, on motion by Supervisor  
Floyd, seconded by Supervisor Kyger and carried by a vote  
of 5 to 0, voting recorded as follows: AHREND - AYE;  
BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the  
Board tabled RZ06-11 Interchange Group, Inc., Manager for  
Lispen, LLC, and Shen Valley, LLC, to rezone 97.44 acres  
from M1-C, A1, and A2 to B1-C (General Business with  
Conditions) on tax parcels 123 (A) 72A, 137 (A) 82, and 137  
(A) 83 and a portion of 123 (A) 74.

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On motion by Supervisor Kyger, seconded by Supervisor  
Cuevas and carried by a vote of 5 to 0, voting recorded as  
follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD -  
AYE; KYGER - AYE; the Board approved the request of Ray and  
Deborah Showalter to withdraw tax parcels 106(A)75,  
106(A)71, 106(A)73, and 106(A)69 from the Dry River  
Agricultural and Forestal District.

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**DENIAL OF S06-39, SPECIAL USE PERMIT REQUEST OF ERNEST F.  
MYERS.**

On motion by Supervisor Cuevas, seconded by Supervisor  
Ahrend and carried by a vote of 5 to 0, voting recorded as  
follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD -  
AYE; KYGER - AYE; the Board removed from the table S06-39,  
request of Ernest F. Myers.

Supervisor Cuevas noted that the Myers special use  
permit request was tabled to allow time for the family to  
consider alternatives. He pointed out that the intent of  
the request was "just for financial benefit and they chose  
not to select another tract." On motion by Supervisor  
Cuevas, seconded by Supervisor Ahrend and carried by a vote  
of 5 to 0, voting recorded as follows: AHREND - AYE;  
BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the  
Board denied S06-39, request of Ernest F. Myers for a  
residence involving a non-family division on property  
located on the west side of Hulings Lane (Route 850)  
approximately 450' north of Endless Caverns Road (Route  
793), Election District #1, zoned A1.

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**PUBLIC HEARING - CREATION OF SHENANDOAH VALLEY WORKFORCE INVESTMENT BOARD.**

At 9:20 p.m., Chairman Breeden declared the meeting open for a public hearing on a proposed ordinance to adopt and approve a joint exercise of powers agreement among County of Augusta, Virginia; County of Bath, Virginia; the City of Buena Vista, Virginia; County of Clarke, Virginia; County of Frederick, Virginia; the City of Harrisonburg, Virginia; County of Highland, Virginia; the City of Lexington, Virginia; County of Page, Virginia; County of Rockbridge, Virginia; County of Rockingham, Virginia; County of Shenandoah, Virginia; the City of Staunton, Virginia; County of Warren, Virginia; the City of Waynesboro, Virginia; and the City of Winchester, Virginia. The purpose of the agreement is to evidence the merger of the Shenandoah Valley Workforce Investment Area and Northern Shenandoah Valley Workforce Investment Area, and to continue operation, subsequent to the merger, of the Shenandoah Valley Workforce Investment Area Consortium and the Shenandoah Valley Workforce Investment Board.

Mr. Brown advised that this was the same agreement adopted by the Board in June 2006, and this action would be to adopt it in the form of an ordinance.

There were no requests to speak on this matter.

At 9:22 p.m., Chairman Breeden closed the public hearing and called the regular meeting back to order.

On motion by Supervisor Floyd, seconded by Supervisor Cuevas and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board adopted the following ordinance.

AN ORDINANCE TO ADOPT AND APPROVE A JOINT EXERCISE OF POWERS AGREEMENT AMONG COUNTY OF AUGUSTA, VIRGINIA; COUNTY OF BATH, VIRGINIA, THE CITY OF BUENA VISTA, VIRGINIA; COUNTY OF CLARKE, VIRGINIA; COUNTY OF FREDERICK, VIRGINIA; THE CITY OF HARRISONBURG, VIRGINIA; COUNTY OF HIGHLAND, VIRGINIA; THE CITY OF LEXINGTON, VIRGINIA; COUNTY OF PAGE, VIRGINIA; COUNTY OF ROCKBRIDGE, VIRGINIA; COUNTY OF ROCKINGHAM, VIRGINIA; COUNTY OF SHENANDOAH, VIRGINIA; THE CITY OF STAUNTON, VIRGINIA; COUNTY OF WARREN, VIRGINIA; THE CITY OF WAYNESBORO, VIRGINIA; AND THE CITY OF WINCHESTER, VIRGINIA

WHEREAS, Virginia Code § 15.2-1300 et seq. authorizes the joint exercise of powers by political subdivisions of the Commonwealth of Virginia; and

WHEREAS, County of Augusta, Virginia; County of Bath, Virginia, The City of Buena Vista, Virginia; County of Clarke, Virginia; County of Frederick, Virginia; The City of Harrisonburg, Virginia; County of Highland, Virginia; The City of Lexington, Virginia; County of Page, Virginia; County of Rockbridge, Virginia; County of Rockingham, Virginia; County of Shenandoah, Virginia; The City of Staunton, Virginia; County of Warren, Virginia; The City of Waynesboro, Virginia; and The City of Winchester, Virginia desire to establish the Shenandoah Valley Workforce Investment Area Consortium, to be comprised of such localities, the purpose of which shall be to plan, establish, and operate a Local Workforce Investment Area and Workforce Development Services Delivery System, in accordance with federal and state law and regulations;

NOW, THEREFORE, be it ordained by the Board of Supervisors of Rockingham County, Virginia (the "Board"), that:

1. Pursuant to the authority contained in Virginia Code § 15.2-1300, a Consortium Agreement among County of Augusta, Virginia; County of Bath, Virginia, The City of Buena Vista, Virginia; The City of Harrisonburg, Virginia; County of Highland, Virginia; The City of Lexington, Virginia; County of Page, Virginia; County of Rockbridge, Virginia; County of Rockingham, Virginia; The City of Staunton, Virginia; The City of Waynesboro, Virginia; County of Clarke, Virginia; County of Frederick, Virginia; County of Shenandoah, Virginia; County of Warren, Virginia; and The City of Winchester, Virginia is hereby approved, in substantially the form presented to the Board, with such changes as may later be approved by the County Administrator and the County Attorney.

2. The County Administrator is authorized to execute, on behalf of the County, and to deliver the Consortium Agreement, in substantially the form presented to the Board, with such changes as may later be approved by the County Administrator and the County Attorney. The execution of the Agreement by the County Administrator shall constitute conclusive evidence of his approval, and that of the County Attorney, of any and all changes from the document presented to the Board.

3. All acts of officers of the County, including without limitation, the County Administrator, regardless of whether such acts occurred prior to or occur after the adoption of this Ordinance, that are in conformity with the purposes and intent of this Ordinance and in furtherance of the transaction authorized by this Ordinance are hereby approved and ratified.

4. This ordinance shall become effective upon enactment unless enacted subsequent to July 1, 2006, in which event it shall be effective retroactively to July 1, 2006.

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COMMUNITY DEVELOPMENT DIRECTOR'S STAFF REPORT.

The Board received and reviewed Mr. Vaughn's staff report dated July 26, 2006, including information concerning a review of the Zoning Ordinance, Randy Whitmore's term on Building Appeals Board (expires on October 31), GIS mapping of the County's utility infrastructure, capital investment and job creation, priority projects under way, summary of upcoming requests and tabled requests.

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HUMAN RESOURCES DIRECTOR'S STAFF REPORT.

The Board received and reviewed Mr. Riddlebarger's staff report dated July 26, 2006, including information concerning health insurance, dental insurance and personnel policy changes.

On motion by Supervisor Cuevas, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board agreed to extend the contract with the County's current carrier, Southern Health Services, Inc. The negotiation process resulted in an overall increase in cost of 4.0%, the lowest adjustment in the past five years. There are no changes to the level of coverage for this coming plan year.

The following shows the new premiums for each coverage type.

Employees hired before 9/1/96:

<u>Type of Coverage</u>	<u>Employee Premium</u>	<u>County Premium</u>	<u>Total Premium</u>
Employee Only	\$ 0.00	\$365.42	\$365.42
Employee & Spouse	\$180.32	\$610.54	\$790.86
Employee & Child	\$146.62	\$496.48	\$643.10
Employee & Family	\$265.86	\$789.18	\$1,055.04

Employee hired after 9/1/96:

<u>Type of Coverage</u>	<u>Employee Premium</u>	<u>County Premium</u>	<u>Total Premium</u>
Employee Only	\$ 42.76	\$322.66	\$365.42
Employee & Spouse	\$213.52	\$577.34	\$790.86
Employee & Child	\$173.64	\$469.46	\$643.10
Employee & Family	\$309.12	\$789.18	\$1,055.04

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In regard to dental insurance, Mr. Riddlebarger reported that United Concordia submitted a proposed 4.5% increase in the current rates; however, staff negotiated no increase in premium. Employees pay 100% of the cost of the dental insurance.

On motion by Supervisor Cuevas, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved the following rates.

Employee Monthly Premiums:

<u>Type of Coverage</u>	<u>Monthly Premium</u>
Employee Only	\$25.98
Employee & Spouse	\$48.34
Employee & Child	\$48.34
Employee & Family	\$76.48

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PERSONNEL POLICY CHANGES.

Mr. Riddlebarger reviewed recommended personnel policy changes, the first of which would provide the County with the opportunity to request reimbursement from FEMA when County employees are called out during a disaster. He noted that FEMA could deny reimbursement unless the County has a clearly stated policy concerning how employees are compensated during a disaster. The second change would make adjustments in the County's leave structure to reflect creating a 24-hour work shift for Fire & Rescue employees. Those employed in fire response positions are permitted under the federal "Fair Labor Standards Act" (FLSA) to work 159 hours in a 21-day work period (in this case, three calendar weeks). Under this proposal, all employees in fire & rescue would remain on the same pay scales and hourly rates will be adjusted for leave payments to reflect the additional hours.

On motion by Supervisor Cuevas, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved the following changes to the current benefit and pay policies.

**PROPOSED PERSONNEL POLICY CHANGES**

**Declaration of Local Emergency Compensation Policy**

During a state of emergency or disaster declared by the Governor, or a declaration of local emergency as declared by the Board of Supervisors resulting from a natural disaster, health epidemic or terrorist attack, essential personnel that work in excess of 40 hours during the normal work week as defined in this handbook or are called in to work when other non-essential employees are not required to work will be compensated in the following manner.

Non-exempt salaried employees will be paid at the rate of one and one half times the hourly rate equivalent for hours in excess of 40 or may be given compensatory time at the rate of one and one half times the hours worked in excess of 40 during the work week. Exempt salaried employees called in or working in excess of 40 hours during the workweek will be provided compensatory time at a rate of one hour for each hour worked in excess of 40. Essential personnel are defined as any employee(s) deemed to be needed to provide services to citizens or support other employees during the state of disaster or emergency.

24 Hour Shift Policy Changes

Annual Leave  
(Vacation)

Annual leave begins to accrue when an employee starts to work and builds based upon length of service. The rate that an employee earns annual leave and the maximum amounts that you may carry at the end of any calendar year is determined by the years of service. Years of service are determined on your anniversary date of hire. Please refer to the chart to determine leave entitlement.

40 Hour Workweek\*

Years of Service	Monthly Rate (hours)	Maximum Yearly Amounts (hours)
0 up to 5	8	192
5 up to 10	10	240
10 up to 20	12	288
20 or more	14	336

\* - rate determined by dividing annual compensation by 2080 hours.

159 Hour Workperiod\*

Years of Service	Monthly Rate (hours)	Maximum Yearly Amounts (hours)
0 up to 5	11	264
5 up to 10	13.5	324
10 up to 20	16	384
20 or more	19	456

\* - rate determined by dividing annual compensation by 2756 hours.

When a forty (40) hour workweek employee changes status to a one hundred fifty-nine (159) hour work period employee the employee's leave balance will be increased by 32.5% to reflect equivalent leave hours associated with the new accrual rate. When a 159 hour work period employee changes to a 40 hour workweek employee the employee's leave balance will be reduced by 27.2%.

Sick Leave

Regular full time forty (40) hour workweek employees will accrue and accumulate eight (8) hours of sick leave for each full month of active employment with the county. *one hundred fifty-nine (159) hour work period employees will accrue and accumulate eleven (11) hours of sick leave for each full month of active employment with the county.* Sick leave hours will not continue to accrue when an employee is on leave and absent from work for a period of more than twelve (12) consecutive weeks. Regular part time employees normally scheduled to work twenty (20) but less than twenty-nine (29) hours per week accrue sick leave based on four (4) hours per month. Regular part time employees normally scheduled to work thirty (30) but less than forty (40) hours per week accrue sick leave based on six (6) hours per month. Temporary and Emergency employees are not eligible for sick leave hour accrual.

If a regular full time employee changes status to a regular part time employee, the accumulated sick leave hours will be converted to a sick leave benefit equal to one half of the accumulated hours. The employee will begin accruing additional sick leave hours at the rate described above. *When a forty (40) hour workweek employee changes status to a one hundred fifty-nine (159) hour work period employee the employee's leave balance will be increased by 32.5% to reflect equivalent leave hours associated with the new accrual rate. When*

*a one hundred fifty-nine (159) hour work period employee changes to a 40 hour workweek employee the employee's leave balance will be reduced by 27.2%.*

**Funeral Leave**

*A Forty (40) hour workweek employee is granted three consecutive workdays in the event of the death of a member of the immediate family. A one hundred fifty-nine (159) hour work period employee is granted 24 hours of pay for the death of a member of the immediate family.* Immediate family in this case consists of the current spouse, parent, son, daughter, brother, sister, grandparent, grandchild, stepchild, stepparent, guardian, and the same relatives of the current active spouse.

If more than the *above allocated time is* needed by the employee, or leave is desired for a death of someone other than the immediate family, the employee may request the use of annual leave.

**Military Training Leave**

A military leave of absence will be granted to employees who are absent from work because of service in the U.S. Uniformed Services in accordance with the Uniformed Services Employment and Reemployment Rights Act (USERRA). Advance notice of military service is required, unless military necessity prevents such notice or it is otherwise impossible or unreasonable.

An employee who is a member of the reserve forces of the armed services of the United States, National Guard or Naval Militia is entitled to a leave of absence without loss of accumulated leave or regular salary on all days when the employee is attending required training. The County will grant up to fifteen (15) days of military training leave per calendar year. The leave will not count against accumulated annual leave. The employee will be paid his or her normal earnings while on leave, in addition to his military pay as an incentive for such military service. *Pay will be determined by using the 1/260 workday calculation method.*

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**Holidays**

*One hundred fifty-nine (159) hour work period employees will receive six (6) paid (24 hours of pay) holidays per calendar year. They are as follows:*

<i>January 1</i>	<i>New Year's Day</i>
<i>Last Monday of May</i>	<i>Memorial Day</i>
<i>July 4</i>	<i>Independence Day</i>
<i>First Monday in September</i>	<i>Labor Day</i>
<i>Fourth Thursday in November</i>	<i>Thanksgiving Day</i>
<i>December 25</i>	<i>Christmas Day</i>

*One hundred fifty-nine (159) hour work period employees will follow the holiday worked and return policy as outlined in this section.*

**Overtime And Overtime Pay**

Employees eligible for overtime pay will be paid at the rate of one and one-half (1 1/2) times the employee's regular hourly equivalent pay rate for all hours over forty (40) worked in a workweek; except for those persons employed in one hundred fifty-nine (159) hour work period positions in the Department of Fire & Rescue, in which case overtime will be paid at the rate of one and one-half (1 1/2) times the employee's regular hourly equivalent pay rate for all hours over 159 hours in a 21-day work period. *The overtime rate for one hundred fifty-nine (159) hour work period employees of the Department of*

*Fire and Rescue hired prior to July 1, 2006 will include a premium such that the result will be that the overtime rate will be determined dividing their annual salary by 2080 hours.*

Holiday hours paid during the workweek will be counted as hours worked for the purpose of determining overtime pay for that particular workweek.

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#### **COMMITTEE REPORTS.**

The Board heard committee reports from Board members and staff.

On motion by Supervisor Cuevas, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; as recommended by the Automobile Committee and Finance Committee, the Board took the following actions.

- Authorized purchase of a new 2007 Ford F-250 pick-up truck from Dallas Hollar at a cost of \$22,393; and
- Authorized as replacement of a patrol vehicle that was involved in an accident on July 4, 2006, a 2007 Ford Crown Victoria from Sheehy Ford at a cost of \$21,278 on State contract and approved a supplemental appropriation of \$3,750 to 001-03102 with funding from the contingency in order to replace the vehicle.

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#### **CLOSED MEETING.**

On motion by Supervisor Kyger, seconded by Supervisor Ahrend and carried by the following vote: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; and KYGER - AYE; the Board recessed the meeting from 9:38 to 10:57 p.m., in accordance with State Code Sections 2.2-3711(A)(1) personnel matters, (3) land acquisition; (30) contractual matters with the City of Harrisonburg and the Towns of Bridgewater, Broadway, Dayton, Elkton and Timberville; and (&) consultation with legal counsel.

At 10:57 p.m., Chairman Breedon called the meeting back to order and the following motion was adopted.

MOTION: SUPERVISOR KYGER            RESOLUTION NO: X06-13  
SECOND: SUPERVISOR AHREND        MEETING DATE: JULY 26, 2006

CERTIFICATION OF CLOSED MEETING



WHEREAS, the Rockingham County Board of Supervisors has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by this Board of Supervisors that such Closed Meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Rockingham County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the Closed Meeting to which this certification resolution applies; and (ii) only such public business matters as were identified in the motion convening the Closed Meeting were heard, discussed or considered by the Board of Supervisors.

VOTE:

AYES: AHREND, BREEDEN, CUEVAS, FLOYD, KYGER

NAYS: NONE

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#### **WATER AGREEMENT WITH CITY OF HARRISONBURG.**

On motion by Supervisor Kyger, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved the following agreement with the City of Harrisonburg subject to review by the County Administrator and the County Attorney, who were authorized to make non-substantive changes as needed.

#### **AGREEMENT AMENDMENT**

THIS AGREEMENT AMENDMENT is made and entered into this \_\_\_\_ day of July, 2006, between the CITY OF HARRISONBURG, a municipal corporation of the Commonwealth of Virginia (the "City") and the COUNTY OF ROCKINGHAM, a political subdivision of the Commonwealth of Virginia (the "County").

#### **PREAMBLE:**

- A. The City and County entered into a contract dated September 14, 1995 (the "1995 Agreement") for the furnishing of water between the City and the County and for sewer services by the City to the County as more specifically provided in that contract.
- B. The 1995 Agreement provides, in part, for the City to furnish water to the County for resale by the County to its water customers at an average flow not to exceed one hundred thousand (100,000) gallons

per day in the area of the County east of Interstate 81 and at an average flow not to exceed three hundred thousand (300,000) gallons per day in an area of the County generally north of the City's northern limits, which includes the R. R. Donnelley plant site.

- C. The 1995 Agreement further provides for the County to furnish water to the City for resale by the City to its customers at an average flow not to exceed five hundred thousand (500,000) gallons per day in an area of the County generally south and east of the City limits.
- D. The parties have agreed to gradually increase the amount of water sold by the City to the County and to provide the opportunity for the County to expand the geographic area where the County may purchase water from the City. The parties also have agreed that they will continue to evaluate ways to cooperate in providing water to the citizens of each jurisdiction in the most cost-efficient manner.
- E. The City has further agreed that, as the amount of revenue received from the County from the water purchased from the City for resale in the County increases, the City will reduce the double rate currently charged to the residential and business customers in the County that it serves in such a manner so as to remain revenue neutral to the City. Such rate will be decreased over time until the rate charged to all water customers in the County served by the City, including the rate charged to the County shall be equal to that charged to City customers.
- F. It is necessary to amend the 1995 Agreement to provide for the increased water supply and expanded geographic area of such water supply.

THEREFORE, it is agreed as follows:

- 1. Section 1 of the 1995 Agreement shall be amended to read as follows: Water To Be Supplied By City. The City shall provide water from the City's water distribution system to the County for resale by the County to its water customers at an average flow initially not to exceed 500,000 gallons per day in any area of the County to which the City is able to deliver water in accordance with Section 5. At such time as the amount of water delivered to the County by the City hereunder exceeds an average of 70% of the 500,000 gallon per day allocation during any three consecutive month period, the County may request that such allocation be increased by 100,000 gallons per day. The City shall not unreasonably deny such request. Thereafter, at such time as the amount of water delivered to the County by the City hereunder exceeds an average of 70% of the new allocation amount during any three consecutive month period, the County may request that said allocation amount be increased by 100,000 gallons per day, which request shall not be unreasonably denied. In no event shall such allocation exceed 1,000,000 gallons per day.
- 2. Section 2 of the 1995 Agreement shall be amended to read as follows: Sewer To Be Provided by the City. The City shall provide facilities for the transportation of sewage at an average annual flow not to exceed sixty thousand (60,000) gallons per day from the R.R. Donnelley plant site. The rate to be paid by the County to the City for said sewer service will be the usual City rates as approved by the City Council and charged to City

customers.

3. Section 3 of the 1995 Agreement shall be amended to read as follows:  
Water to be supplied by the County. At the City's request, the County shall provide from the County's water distribution system for resale by the City up to an amount equal to the average amount per day purchased by the County as provided in Section 1 of this Amended Agreement. Consistent with Sections 1, 5 and 5.1 of this Amended Agreement, the County maintains the right to pre-approve the amount of additional water requested to be sold to the City, and the location of the connection point to the County water system.
4. Add a new Section 5.1 to read: Consistency with Local Land Use Plan. The County and City agree that development of the area to be furnished water under this Agreement will be subject to the approved Comprehensive Plan of the respective jurisdiction. The County will notify the City in advance of consideration by the County's Planning Commission of any rezoning request in areas which use or propose to use water from the City's water distribution system, and which deviate from such plan, or of any request to amend the County's Comprehensive Plan for this same area. Likewise, the City will notify the County in advance of consideration by its Planning Commission of any rezoning request that uses or proposes to use water from the County's water distribution, or of any request to amend the City's Comprehensive Plan for this same area.
5. Add a new Section 5.2 to read: Avoidance of Stranded Assets. At such time that new water service is requested under this Amended Agreement, and the supplying party is required to incur upfront capital costs to meet such request, and notifies the receiving party of such, the additional water allocation purchased shall continue until such time as the supplying party is able to recover its cost directly related to the supplying the new service. The supplying party shall provide to the receiving party, in advance of approval of the additional allocation, the cost to be incurred and the amount expected to be recovered to prevent the creation of stranded assets. In the event that the receiving party determines to discontinue the use of such allocation prior to the recovery of the agreed upon costs then the receiving party shall pay to the supplying party the balance of the agreed upon costs not yet recovered.
6. Section 6 of the 1995 Agreement shall be amended to read as follows: 6. Water Rates To Be Charged.
  - a. Rate Charged to County by City, and to City by County. Effective on the date of this amendment, any water supplied by and delivered to either party in a given month shall be setoff on a gallon for gallon basis against the water supplied by the other party during such month. After such setoff, the remaining balance of water provided shall be billed to the party receiving such water at a rate of \$2.15 per one thousand (1,000) gallons, which rate approximates the rate charged to City residents on the date of this amendment to the Agreement. The rate for water supplied by either party above the setoff under this paragraph shall be reviewed annually by the parties on the anniversary date of this amendment to the Agreement in order to set the rate for the next year. The rate for water supplied by the City for the next year shall be increased by a percentage determined by averaging the increase in water rates charged to City customers by the City. The rate for water supplied by the County for the next year shall be increased by a percentage determined by averaging the increase in water rates charged to

County customers by the County.

b. City rate for water sold to County residential and business customers. The parties acknowledge that the City currently sells water to residential and business customers located in Rockingham County based on a rate schedule that is double the schedule used by the City to charge its customers located within the City. The parties agree that these existing accounts shall remain in place. The City agrees that as the revenue received from the County in accordance with the provisions of paragraph 6a above increases, the water rate schedule used to charge County residential and business customers shall be decreased in such manner as to make the receipts to the City from the sale of water to County from both these County customers and to the County as set forth in paragraph 6a revenue neutral for the City, until such time as the rate schedule used by the City to charge County customers under this paragraph is equal to the rate schedule used by the City to charge customers within the City limits. Revisions in the rates charged by the City to County residential and business customers will be made annually on the anniversary date of this amendment to the Agreement.

c. Add a new paragraph: Connection fee to be paid by Receiving Party. The County and City agree that for any connection to the water distribution system of the other party after the date of this Amended Agreement, a fee in accordance with the approved water connection fee schedule shall be paid by the receiving party to the supplying party. This payment shall be used in addition to the depreciation component of the monthly water usage fees paid to compensate the supplying party for the assets constructed under Section 5.2 of this Agreement Amendment.

7. Section 9 of the 1995 Agreement shall be amended to read as follows: 9. City Customers: The City will be permitted to continue service to City customers in the County existing as of the date of the Amendment. In addition, when any development of up to three (3) residential lots along the Route 33 west and Route 701 corridors requires a new direct connection to existing infrastructure located in the County but owned by the City, then the City shall be given the first opportunity to provide water to the new development by direct sale, unless the parties agree otherwise. Developments of more than three (3) lots along the Route 33 west and Route 701 corridors shall be provided water by the County in accordance with this agreement. If the use of the City's sanitary sewer is required, other than by agreement as previously referenced in the preamble of this Amendment, by any development using County water, then the County shall be responsible for metering such sewer usage and shall notify the Harrisonburg-Rockingham Regional Sewer Authority that such usage shall be counted towards the County's allocation with the Authority.

IN WITNESS WHEREOF, the City has caused this Agreement Amendment to be signed in its name and on its behalf by its Mayor, attested by its Clerk, as thereunto duly authorized by the City Council; and the County has caused this Agreement Amendment to be signed in its name, and on its behalf by its Chairman, attested by its County Administrator, as thereunto duly authorized by the Board of Supervisors.

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**ADJOURNMENT .**

At 10:58 p.m., Chairman Breedon declared the meeting adjourned.

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Chairman